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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,603	03/31/2004	George F. Elmasry	014.0037 (02798.0006NPUS)	4355
29906 7590 06/26/2008 INGRASSIA FISHER & LORENZ, P.C. 7010 E. COCHISE ROAD SCOTTSDALE, AZ 85253			EXAMINER JAIN, RAJ K	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 06/26/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ifllaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,603	<b>Applicant(s)</b> ELMASRY ET AL.	
	<b>Examiner</b> RAJ K. JAIN	<b>Art Unit</b> 2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/31/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

Claim 12 recites "the method of claim 20", this doesn't make sense, claim 20 is a computer readable claim. Appropriate correction is required.

Claim 18, in line 4 replace "node" with "level".

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 recites the limitation "the first severity level" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claims 19 and 20 recite the limitation "the applying code" in line 2 of respective claims. There is insufficient antecedent basis for this limitation in the claim.

Claim 21 recite the limitation "the first severity level and the second severity level" in line 11. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7-9, 15-18, 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawatari (US 2002/0004841 A1) in view of Calvignac et al (USP 5,557,608).

Regarding claim(s) 1, 9, 17 and 21, Sawatari discloses an method and apparatus, comprising: a first node 10 (Fig. 1); a second node 20, coupled to the first node 10 via first network path 30 (paras 29 and 35, the node 10 section 14 is configured to transmit packets to node 20);

a first processor 12 associated with the first node (RTP section receives and processes the data to be transmitted; Para 33); and a second processor 22 associated with the second node, configured to receive a packet of data from the first processor, the packet of data including a condition of the first network path (paras 103-105),

calculate a severity level for the first network path based on the condition of the network path (paras 41 and 75, upon receipt of data the severity level is calculated by the RTP receiving section 22) and transmit the severity level to the first processor (Para 43, section 23 informs the transmitting side 10 the data receiving state of node 20);

wherein the first processor is further configured to update the one of the plurality of admission policies based on the transmitted severity level (para 50).

Sawatari fails to disclose having a plurality of call admission policies associated with one of a plurality of severity levels within its network.

Calvignac discloses having a plurality of call admission policies associated with one of a plurality of severity levels within its network (col 1 lines 40-62; col 3 line 34 –

col 4 line 34.) Embedding different priority traffic levels with different service policies within a serial transmission link allows for a heterogeneous architectures that minimize processing time for all types of traffic traversing thru a given network. Thus it would have been obvious at the time the invention was made to incorporate the teachings of Calvignac within Sawatari so as to allow for a heterogeneous traffic architectures that minimize processing time for all types of traffic traversing thru a given network.

Regarding claim(s) 2, Sawatari discloses wherein the severity level is based on a packet delay and a packet loss ratio between the first node and the second node (paras 35, 57 and 78).

Regarding claim(s) 7 and 15, Sawatari discloses a memory device associated with the first node, the memory device being configured to store data associated with at least one of the severity level; a packet delay; the total number of received packets; and a packet loss (Fig. 2, paras 46, 63, 67 and 68).

Regarding claim(s) 8 and 16, Sawatari discloses a memory device associated with the first node, the memory device being configured to store data associated with a destination list and a source list, the destination list including data associated with packets of data being transmitted from the first node to the second node and the source list including data associated with packets of data being received at the first node (Fig. 3, paras 54, 55 and 60-65).

Regarding claim(s) 18, Sawatari discloses calculate a cost function based on a packet of data received from a remote node; update a severity level; and transmit the severity level to the remote node (Para 75).

Regarding claim(s) 22-25, Sawatari discloses wherein maintaining the quality of service includes maintaining the quality of service on communications network (abstract, paras 1, 4 and 34, Sawatari discloses a general communication apparatus that can be easily applied to different networks including military network, WAN, secure network and a commercial network as desired).

Regarding claim(s) 26 and 27, Sawatari fails to disclose a multilevel precedence and preemptive policy. Calvignac discloses a multilevel precedence and preemptive policy (col 1 lines 40-63). A preemption policy allows for different priority levels to be set so as to allow transmission of packets based on the predefined criteria and based on characteristics of the communication link.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Calvignac within Sawatari allowing users to predefine transmission characteristics as appropriate.

Claims 3,4,12,19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sawatari (US 2002/0004841 A1) in view of Calvignac et al (USP 5,557,608) further in view of Khan et al (USP 6,400,954 B1).

Regarding claim(s) 3, 4, 12, 19 and 20 Sawatari fails to disclose different service classes and Calvignac fails to disclose traffic threshold levels.

Khan discloses different service classes in a network with different threshold levels (col 2 line 65 - col 3 line 7; col 6 line 26-49. Different classes of service provide a controlled allocation of call blocking and/or packet delay which results when the network reaches or exceeds its capacity limits.

Thus it would have been obvious at the time the invention was made to incorporate the teachings of Khan within Sawatari so as to enhance network performance by allocating network resources based on service class parameters and limiting capacity limits.

***Allowable Subject Matter***

Claims 5,6,13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJ K. JAIN whose telephone number is (571)272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

***/Raj K. Jain/***

*Primary Examiner, Art Unit 2616*

June 25, 2008